

### *□ Congressman Cites Report Showing Chesapeake Energy Corp. & Encana Corp. Worked Together to Dramatically Lower Market Value for Leased Land Used in Fracking*

*Washington, DC* -- Congressman Maurice Hinchey (D-NY) today called on the U.S. Department of Justice to launch an anti-trust investigation of two major natural gas companies after a recent news report detailed a series of meetings and secret agreements between the two companies that led to a dramatically lower market value for land those companies leased for drilling in Michigan. Reuters reported last week that Chesapeake Energy Corp. and Encana Corp. worked together to avoid competing for the same parcels of land so that each company would have no competition when making lease proposals to landowners and therefore be able to secure a cheap price. In a letter sent to U.S. Attorney General Eric Holder, Hinchey also urged him to examine whether such anti-competitive practices took place elsewhere in the U.S.

"I urge you to review this [Reuters] report, open an investigation into whether any federal antitrust laws were violated in this case, and assess whether violations may have been committed in other oil and gas lease bidding across the country," Hinchey wrote in his letter to Holder. "As you know, the recent boom in domestic oil and natural gas production has caused the industry to lease millions of acres for development on both private and public property. Chesapeake Energy Corp. and Encana Corp. represent two of the largest corporations in the oil and gas industry. Reuters reported Chesapeake has leased more than 15 million acres in the U.S. in the past 10 years while Encana has leased 2.5 million acres. These rivals often bid against each other for prime oil and gas rights in shale formations; however, prices and competition for leases in Michigan drastically fell after communications between these two companies began in 2010, when top executives discussed how to avoid bidding against each other in a public land auction and strategies for dealing with at least nine large private landowners."

Reuters detailed a series of communications between high level executives with Chesapeake and Encana in which they discussed ways to keep prices down for upcoming land sales. Leading up to one such sale in October 2010, the two companies discussed "arranging a bidding strategy." That auction resulted in \$9.7 million from the leasing of approximately 274,000 acres in Michigan. In a similar auction in May 2010, prior to communications between the two companies, the State of Michigan raised \$178 million from the sale of more than 118,000 acres.

Hinchey is a leader in Congress of the effort to protect drinking water and the environment from the risks of hydraulic fracturing. He is a co-author of the FRAC Act, which would mandate public disclosure of chemicals used in frack fluid before and after drilling takes place and allow the EPA to regulate fracking activities under the Safe Drinking Water Act. The congressman also authored the appropriations language that led to the current EPA study on hydraulic fracturing.

The full text of Hinchey's letter to Holder follows:

July 2, 2012

The Honorable Eric Holder

United States Attorney General

U.S. Department of Justice

950 Pennsylvania Avenue, NW

Washington, DC 20530

Dear Attorney General Holder:

I am writing to bring your attention to a very disturbing article, entitled "Special Report: Chesapeake and rival plotted to suppress land prices", published by Reuters on June 25. According to this report, two of the largest natural gas companies in the United States may have colluded to suppress oil and gas lease prices illegally in Michigan in 2010. I urge you to review this report, open an investigation into whether any federal antitrust laws were violated in this case, and assess whether violations may have been committed in other oil and gas lease bidding across the country.

As you know, the recent boom in domestic oil and natural gas production has caused the industry to lease millions of acres for development on both private and public property. Chesapeake Energy Corp. and Encana Corp. represent two of the largest corporations in the oil and gas industry. Reuters reported Chesapeake has leased more than 15 million acres in the U.S. in the past 10 years while Encana has leased 2.5 million acres. These rivals often bid against each other for prime oil and gas rights in shale formations; however, prices and competition for leases in Michigan drastically fell after communications between these two companies began in 2010, when top executives discussed how to avoid bidding against each other in a public land auction and strategies for dealing with at least nine large private landowners.

Reuters's evidence of possible collusion began in June 2010 when executives "discussed how to handle negotiations with at least nine private landowners." Emails were exchanged between top executives, including Chesapeake CEO Aubrey McClendon, who suggested "to smoke a peace pipe" with Encana in a June 16 email to a Chesapeake vice president. Chesapeake expressed an explicit intent to work with Encana to strategize ways to avoid "bidding each other up."

On June 15, Chesapeake vice president Doug Jacobson emailed Encana vice president John Schopp with "plans to split up where, and from whom, each company would lease land in

Michigan." As Reuters reported, "the reason, the email shows, was to ensure each company could acquire more land without bidding against the other."

Intent to pursue anti-competitive practices was very explicit. Mr. Jacobson wrote to Mr. Schopp, "I'd like to visit with you about the implications of the impact of our competition on acreage prices and whether or not the sooner we do this the better shot we have of keeping acreage prices from continuing to push up." The prices offered to private landowners dropped sharply following these communications.

Reuters also reported that emails were exchanged prior to an auction of state land in Michigan on October 26, 2010. An October 20 email from Jeff Wojahn, Encana's U.S. president, to Mr. McClendon referred to "arranging a bidding strategy" prior to the auction. This strategy suggested counties that would be divided between the two companies in order to avoid competitive bidding. Even if the companies backed away from an official bidding strategy, it seems clear there was a signaled intent and it looks highly suspect that neither company leased any rights in the same county.

The auction resulted in \$9.7 million from the leasing of about 274,000 acres. In a similar auction in May 2010, before the two companies began communicating, Reuters reported that the state of Michigan raised \$178 million from the sale of more than 118,000 acres, where 83 percent of the more than 1,200 winning bids had competitive offers.

Reuters reported that Chesapeake faced competition in auction bids "in just 10 percent of the 320 leases it purchased at the fall auction." Compare that to the May auction where "Chesapeake faced competing bids for every one of the more than 850 leases it secured." The results were strikingly similar for Ecan. "In October, only 27 percent of the 1,675 leases it purchased were contested. In the May auction, companies bid against Encana in each of its 70 successful offers." I find it highly unlikely that this happened by coincidence. And, if it happened in Michigan, there is a possibility it has happened elsewhere.

This sample of communications between top executives at rival corporations related to pricing, market allocation, and auction strategy is highly troubling. While Encana has stated it is undergoing an internal investigation, it seems clear there is sufficient evidence to warrant federal scrutiny. These corporations may have cost the state of Michigan and private landowners millions of dollars. Based on this report, I urge you to investigate these allegations of anti-competitive practices by the oil and gas industry designed to suppress oil and gas lease prices in Michigan and elsewhere in the U.S.

Thank you for your attention to this matter.

Sincerely,

Maurice D. Hinchey

Monday, 02 July 2012 13:19

---

cc: Joseph Wayland, Acting Assistant Attorney General, Antitrust Division

###